

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

GENE E. DUDLEY,

Plaintiff,

VS.

STEVE AYCOCK, et al.,

Defendants.

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§ Civil Action No. 3:07-CV-0916-D

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ORDER

I

After making an independent review of the pleadings, files, and records in this case, and the May 31, 2007 findings and recommendation of the magistrate judge, the court concludes that the findings and conclusions are correct and are therefore adopted. Accordingly, no later than October 26, 2007 plaintiff must pay the \$350.00 filing fee. If he fails to do so, this case will be dismissed.

II

The court is adopting the magistrate judge's findings and recommendation today without granting plaintiff Gene E. Dudley ("Dudley") additional time to file objections. The court therefore denies his September 24, 2007 motion requesting additional expansion of time.

Dudley's motion requesting additional time to file objections is his third such motion. The court previously extended the deadline for Dudley to file objections because he was receiving medical treatment at a federal prison in Rochester, Minnesota for a fractured hip, and he did not have access to his legal materials, which remained at his former prison in Yankton, South Dakota. In its latest order, the court observed that "plaintiff has offered no evidence that his medical condition prevents him from filing objections to the magistrate judge's recommendation until he completes

his rehabilitation,” but granted Dudley one final extension until September 25, 2007. *See* Aug. 9, 2007 Order. The court also advised Dudley that “[n]o further extensions will be granted.” *Id.* Instead of filing objections, Dudley now seeks still another extension for an unspecified period, contending he is still receiving medical treatment in Minnesota.


As before, Dudley has offered no evidence that his medical condition prevents him from filing objections to the magistrate judge’s recommendation that the court deny Dudley’s application to proceed *in forma pauperis* under the “three strikes” provision of the PLRA. Although Dudley alleges that there are documents that show that some of his prior lawsuits were not dismissed as frivolous, the only evidence Dudley submits—the docket sheet in *Dudley v. Megerman*, No. 5:93-CV-06030-DBB—indicates otherwise. Moreover, as the magistrate judge noted in his recommendation, Dudley has been denied leave to proceed *in forma pauperis* in two prior cases based on the “three strikes” rule. *See Dudley v. Koetting*, No. 5:02-CV-0263-W-3-P (W.D. Mo. Apr. 5, 2002); *Dudley v. Corwin*, No. 5:06-CV-0613-W-ODS-P (W.D. Mo. Jul. 31, 2006). These decisions necessarily were based on competent evidence that Dudley is barred from proceeding *in forma pauperis*.

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Accordingly, no later than October 26, 2007, Dudley must pay the \$350.00 filing fee. If he fails to do so, this case will be dismissed.

SO ORDERED.

September 26, 2007.


SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE